

~ ~ STATE ACCIDENT PREVENTION CHAIRMEN ~ ~  
**INFORMATION**  
 SEPTEMBER 2011



**2011 ACCIDENT PREVENTION SEMINAR**

If there are any state chairmen invited to the upcoming seminar who have not turned in their form, please do so immediately. Without this form, we are unable to book an airline ticket or make room reservations. If you find you are unable to attend this year's seminar, please notify the Insurance Department as soon as possible.

Anyone who has not turned in their Activities Status Report for 2011 should turn it in as soon as possible or have it with them when attending the scheduled seminar, so that I may include the figures from these report in my reports to the Insurance Subcommittee.

**CHANGES TO PROPERTY PLUS PROGRAM**

As State Accident Prevention Chairmen, you should have already received a memo from Deborah Downey of Aon Affinity Services, our third-party plan administrator, explaining the upcoming change to the Property Plus Program policy renewal dates. As that letter states, all Lodges will be receiving a letter from the Property Plus Program's administrator in the near future announcing the upcoming change that involves the renewal dates for all Lodge policies:

Effective April 1, 2012, the renewal date for the Property Plus policies will be changed to April 1st (please note this transition will involve early cancellations for some Lodge policies and short-term renewals for other Lodge policies).

Aon is in the process of sending letters to those Lodges that don't already have a 4/1 policy renewal date that will provide information on how these changes will be implemented.

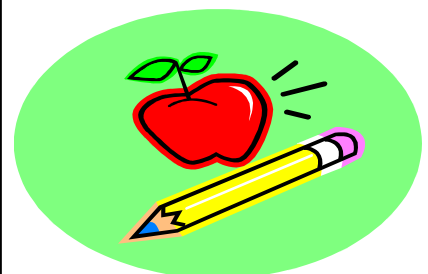
As the letter you received from Aon already pointed out, renewing all Lodge policies on the same date will simplify the Property Plus Program and make this self-insured Program more attractive to excess carriers. However, these changes will in no way affect a Lodge's continuation of coverage.

If a Lodge contacts you for clarification and/or further information regarding this upcoming change, please do your best to answer any questions they may have and don't hesitate to direct them to The Elks Team of Aon Affinity Services at 1-800-421-3557 for further assistance.

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**OUR KIDS ARE BACK IN  
 SCHOOL, SO PLEASE  
 DRIVE SAFELY.**





## IMPORTANCE OF OBSERVING COPYRIGHT LAWS

Local Lodges or State Associations must never print written materials such as poems, stories or portions thereof without permission from the authors or owners of such material; there are no exceptions.

This also applies to movies, television content or music when they are used to generate income.

There are organizations geared to seek out and detect violations and demand large payments for such violations; therefore, those responsible for creating

and/or editing every Lodge or State Association newsletter must do everything possible to ensure there are no possibilities for copyright violations.

## FLOODS

This year, a number of Lodges have suffered significant losses due to floods. Unfortunately, the Self-Insured Property Plus Program does not provide coverage for flood related losses. In every instance, Aon Affinity Services, our third-party plan administrator, sends out notices with each Lodge's yearly policy renewal packet to remind Lodges they should determine if their Lodge is located in a flood plain and whether their circumstances point to acquiring such coverage. If a Lodge needs flood coverage, they should contact Aon at

## FIDELITY/CRIME COVERAGE

In recent months, the Property Plus Program has experienced a number of cases under the crime/fidelity portion of the policy where officers, trustees or trusted employees have embezzled funds.

While there have been cases where the offending party was allowed free reign regarding the use of Lodge credit cards or single-signature checks, every one of these claims would have been avoided if not for the dereliction of duty caused by uninvolved officers and/or trustees of the Lodge who had not established appropriate procedures and/or monitoring policies to avoid such thefts. Proper monitoring and frequent statistical reviews should be made for those responsible for issuing checks or anyone who handles cash from bars, restaurants, etc. **Every Lodge should make it a priority to review such matters!**

## SERVICE OF ALCOHOL

We must continue to tell the story about the proper service of alcohol (refer to Page 7 of the *Accident/Claim Prevention Manual*, Fifth Edition). In general, the Order has made great progress in cutting down the number of alcohol related claims, but we must do an even better job.

The servers at our Lodges must anticipate problems. It is good when servers inform a member or guest that they are cut off because they have had enough. However, the server might better have stopped serving drinks prior to the last drink by stating that the member or guest is approaching intoxication.

The excuse told by members that they have a designated driver, are walking or are not driving is not acceptable; do not allow a party to approach intoxication. In some states, you may be responsible for allowing a person to become drunk.

We have had claims made by persons who had left the Lodge on foot and injured on the way home and other claims made by people who got a ride home and sustained injuries in his own home after the Lodge member left.

In many states, claims can be made against the person who served the alcohol no matter how culpable the Lodge is. To protect your Lodge and the Order, every Lodge must be strict with their service policies. **Cut the patron off early, and you won't be sorry.** Remember, the Lodge's services are a privilege, not a right.





### **D&O/EMPLOYMENT PRACTICE CLAIMS**

As it has been pointed out many times in the past, the Master Liability Program, which provides liability coverage for all Subordinate Lodges, does not provide D&O or Employment Practices coverage.

Under the D&O/Employment Practices policy now available, the D&O portion of that policy provides protection for allegations of wrong doing that may include claims of discrimination with regards to the membership selection process; negligent acts; breach of duty; or errors and omissions related to the management of the Lodge. The Employment Practices portion of that policy provides personal injury coverage for employment related claims and includes coverage for sexual harassment, discrimination, and wrongful discharge.

This coverage is now available, to a greater or lesser extent, under many policy forms issued locally. However, we believe that the plan offered by Aon Affinity Services gives the broadest coverage and also provides a special discounted premium for Elks Lodges.

This coverage will provide all officers and directors (including trustees) with an immediate defense, not just a possible promise of later reimbursement of expenses. This form also provides coverage and defense to the Lodge entity. Under many other policy forms, the carrier is required only to reimburse expenses after the fact, and many also only provide coverage on individual officers or directors leaving the Lodge to pay for its own defense if it is named as a defendant.

The decision of whether or not this coverage is needed by a Subordinate Lodge is one that must be made by the individual Lodge; however, we do strongly urge that each Lodge review its own circumstances in order to properly assess the possible exposures. If any Lodge has employees; substantial operations; significant property holdings; or substantial assets, it is suggested that a close review be conducted to determine if this protection is needed. It is strongly suggested that a quote for such coverage be obtained. Without such coverage, the individual assets of officers and/or members could be in jeopardy.

To avoid these types of claims, all Lodges should establish work rules and establish a discrimination policy (the "Accident/Claim Prevention Manual" and the "Discrimination and Harassment Guidelines" booklet provide instructions in more detail). Lodges that establish such rules and procedures and follow through with them have a better chance of avoiding claims.

### **BRIEF REMINDER**

If a Lodge has fidelity (crime) coverage under the Property Plus Program, there is no need to purchase separate bonds for Lodge officers or others required by the Lodge By-Laws.



### **CHILD SUPERVISION**

All Lodges should establish a strictly enforced policy that children of members and guests are to be properly supervised while on Lodge premises are to be strictly supervised. Children should not be allowed to roam free throughout the Lodge or its facilities, including but not limited to the Lodge club areas, swimming pools, tennis courts, or any other recreational areas. It should also be a priority for all Lodges to comply with local laws by keeping minors out of areas where alcohol is being served. If members or guests refuse to comply with the Lodge's rules, these members or guests should be barred from using the facilities.



### **AUTOMOBILES/TRUCKS/BUSES**

As a repeated thought, no Lodge should ever own an automotive unit:

- There is no coverage of any sort under the Self-Insured Master Liability Program.
- The Lodge would have to buy local insurance, which is expensive. The Lodge would probably not be able to get more than one million dollars coverage with the potential for getting considerably less than that. If a Lodge were to have any type of catastrophic loss, especially involving buses, the low limits of coverage could result in a judgment that would take all of a Lodge's assets.
- There is no logical business or efficiency reasons for any Lodges to own any vehicles licensed for road use.

### **LIFE SAFETY IN LODGES**

In areas occupied or used by members or guests, Lodges should have appropriate safety devices such as fire, smoke and carbon monoxide detectors. If a Lodge owns any facilities that are rented or used by individuals as living quarters, these same devices should be provided (in some jurisdictions, it is the law).

Furthermore, any facilities should be free from lead paint and asbestos exposure (any claims alleging injury from these sources are not covered under the Master Liability Program).

Entrances and exits must be properly constructed/configured; they must also be easily accessible and clearly marked. In every case, all fire safety provisions, zoning codes, and construction codes must be complied with.

### **LIFE INSURANCE BENEFITS**

The Insurance Department frequently receives inquiries from the families of deceased members asking if there are any life insurance benefits due them. Please note that the Statutes of the Order prohibit such benefits.

### **HALLOWEEN**

Many Lodges have various types of activities at Halloween, such as haunted houses, costume parties, etc. The Lodge should carefully review the plans for these activities to make sure they are conducted in a safe manner:

- Construction of any props or facilities should be done properly and in a sturdy fashion with a recognition of the prospective traffic and the abuse of wear and tear expected during celebrations.
- All fire codes must be followed; every effort should be made to ensure that all materials are fireproof or fire resistant.
- Planning for crowd control must be done to avoid potential injuries caused by panic or heavy attendance.
- Any food served during these events must be handled in a sanitary manner in compliance with health code regulations.





## LODGE ACCIDENT PREVENTION MANAGER

It is imperative that each Lodge's accident prevention manager (appointed in accordance with the Statutes of the Order) be active in the safety review of the Lodge on a continuing basis. It must be emphasized to Lodge management that the accident prevention manager is to be included when planning the Lodge's day-to-day operations. Employees must be informed of their responsibilities as they relate to the accident prevention efforts; safety reviews should be scheduled on a regular basis. Also, managing the Lodge should not be totally delegated to employed managers. The Lodge officers, Lodge managers and the accident prevention manager must be aware and review the actions of all Lodge employees.

## ROOF MAINTENANCE

The Property Plus Program provides coverage on Lodge buildings, but only for actual damage caused by a covered peril. It does not replace portions of the roof that are worn out by reasons of wear and tear or age.

Every type of roof has an expected life period. All Lodges must be responsible for the Lodge roof's maintenance and replacement. Proper planning should be established to accomplish these goals.

## STAIRS

We continue to have members and guests who fall on stairs; especially stairs associated with entryways. Most are caused by the injured party not paying attention or by their physical condition, but all Lodges must attempt to eliminate any conditions of the premises that contribute to the users' already existing problems.

- Make sure that all stairs are in good repair. Add non-skid strips or material and make sure that they are replaced when needed.
- Make sure that, to the extent possible, the stairs meet code requirements. If there is any deviation from code requirements in existing stairs that cannot be readily corrected, warning signs might be displayed that could read something like "narrow steps", "wide steps", "steep incline", etc.).
- In almost all situations, a railing is required. For stairs with two-way traffic, railings should be provided on both sides. If the stairways are very wide, a railing in the middle might be used.
- Do not block or clutter entrances to stairways with notices, signs or other such equipment.
- In inclement weather conditions, make sure that outside stairs are clean and properly treated. Make sure that inside stairs are cleaned to remove moisture or debris tracked in from the outside.

## CHAIRS AND STOOLS

In recent weeks, I have received many reports where Lodges have encountered claims involving people who allegedly sustain injuries as a result of old and/or broken pieces of furniture. As has been stated for many years, don't throw the offending chair or stool away. It is vital that Lodges keep the chair or stool involved because the manufacturer may be responsible, which means our claims adjuster can make a demand on the manufacturer.

More important than keeping a chair after an accident has already occurred is the fact that Lodges should make it a priority to regularly inspect the condition of its chairs and stools. When in doubt about the safety of any piece of furniture, the Lodge should have them removed or replaced. If Lodge management decides a specific piece can be repaired, every effort should be made to get a guarantee from the company handling such repairs.

Lodges should use the monthly safety inspection report found in the *Accident Prevention Manual* to check on the conditions of chairs and stools. This should be done on a monthly basis at the very least.





### WASHROOMS/LOCKER ROOMS

These are areas where falls occur. Each Lodge must review their situation and eliminate hazards.

- Lodges must properly place instructions and warning signs.
- Keep these areas clean and free of any debris. During times of heavy use, it is wise to log inspection and cleaning times.
- To the extent possible, eliminate potential hazards. If this cannot be done, place warning signs; such as in an area with several levels or where moist conditions are likely to create slippery floors.
- If possible, place the towel dispenser and the garbage container in the sink console rather than across the room. This will avoid water dripping on the floor that can cause many spills.
- In the shower areas, place railings or hand holds. These are useful to persons with disabilities as well as an aging membership.

### SERVICING ALCOHOL OFF-PREMISES

There has been a trend where commissary corporations or others that have contracts with event sponsors attempt to have not-for-profits act to serve alcoholic beverages at such events for a percentage of the proceeds but require that the not-for-profits must provide the liquor liability insurance.

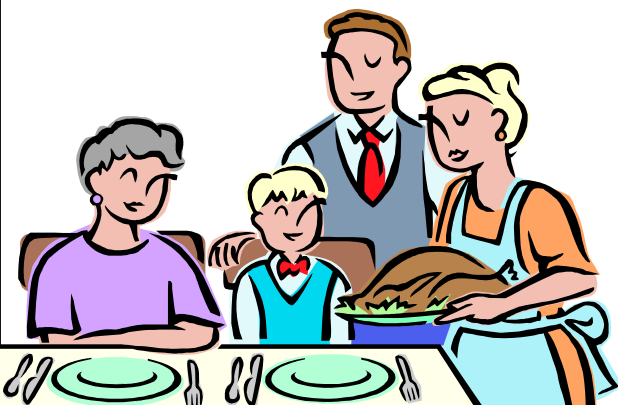
Those entities presently holding events or entities with concession contracts will attempt to have not-for-profits become responsible for liquor liability by providing some share of the sales for such items. This is not acceptable.

The Elks cannot afford to allow Elks Lodges to misuse the Self-Insured Liability Program in this fashion. If the Lodges were insured by individual policies, they would not be allowed to function in this way in most cases because of underwriting rules.

As has been stated previously, there have been recent verdicts of over one hundred million dollars entered against other not-for-profit organizations where service was provided at such outside events.

The Elks Self-Insured Master Liability Program assumes the first million dollars of each and every occurrence. The local Lodges' assessments are predicated on the normal exposure derived from the Lodge's operations, not on expanded, less controllable exposures outside the Lodge. **With that in mind, it has been decided that certificates of insurance naming anyone additional insured will not be issued for any Lodge if an event involves serving alcohol to the public.**

The rule with the service of alcohol is that no person approaching intoxication is to be served under any circumstances. This is harder to do in an event circumstance, if not impossible.



The Order cannot allow other organizations to use the Self-Insured Master Liability Program in this improper fashion. The Self-Insured Master Liability Program includes liquor coverage for service at the Lodge.

Lodges should not assume they should participate in the commercial service of alcohol that benefits other organizations or presents an exposure not related to the normal operations of the Lodge facility.